



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/670,400	09/26/2003	Bernd Frommherz	031226-015	2715

21839 7590 08/03/2004

BURNS DOANE SWECKER & MATHIS L L P  
POST OFFICE BOX 1404  
ALEXANDRIA, VA 22313-1404

EXAMINER
----------

VANAMAN, FRANK BENNETT

ART UNIT	PAPER NUMBER
----------	--------------

3618

DATE MAILED: 08/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

31

<b>Office Action Summary</b>	<b>Application No.</b> 10/670,400	<b>Applicant(s)</b> FROMMHERZ, BERND	
	<b>Examiner</b> Frank Vanaman	<b>Art Unit</b> 3618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-12 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>12/23/03</u> . | 6) <input type="checkbox"/> Other: ____  |

Art Unit: 3618

### **Oath/Declaration**

1. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:

It does not identify the foreign application for patent or inventor's certificate on which priority is claimed pursuant to 37 CFR 1.55, and any foreign application having a filing date before that of the application on which priority is claimed, by specifying the application number, country, day, month and year of its filing.

2. In this case, the foreign application is not accurately identified: in the Declaration, the foreign filing date is referred to as April 12, 2001, while the filing date on the certified copy is shown as December 4, 2001.

### **Claim Rejections - 35 USC § 112**

3. Claim 12 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 12, line 1, "the functional elements" lacks a clear antecedent basis. Please note that claim 12 is currently written to depend from claim 1, not claim 11.

### **Claim Rejections - 35 USC § 103**

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Symons (US 6,155,580) in view of Atkinson (US 4,088,367). Symons teaches a child seat for a shopping trolley (1), wherein the trolley itself is taught to be molded in such a

Art Unit: 3618

way so as to be composed of first and second parts, with internal reinforcements connecting the parts, the seat (16, 17, 18, 19) comprising a back rest (17) made of plastic and having at least front and rear faces, arranged to be pivotable about a hinge (18), having a bearing portion formed on one face of the backrest of the seat (figure 1). The reference to Symons fails to explicitly teach the seat as being made from parts forming half-shells, defining a hollow body therein, made from at least one first part and two second parts, having internal reinforcing ribs, at least one part having a same contour as the overall backrest, the contour being H-shaped. Atkinson teaches an old and well known molded seating scheme including a seat made from first (22) and second (12) portions forming a hollow space therein, the second portion comprising at least two parts (e.g., 12, 18), forming together half-shells (see figure 8), including internal reinforcing ribs (26, 30, 32, 34), a contour of the first part (22) following that of the second part (figure 8) and wherein the contour including the ribs forms an H-shape (figure 8—vertical portions 11, 14, cross portions 34), the seat structure further including mounting guides (42, 64, 72) and openings (note 70, figure 1, compared with figure 4). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the seat backrest on the trolley of Symons as being made from plural shell portions which together define a hollow space, for the purpose of constructing a seating assembly which is both lightweight and rigid.

Art Unit: 3618

### Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Wahl (US 3,844,577), Morris (US 3,910,634), Rehrig (US 4,537,413), Buono et al. (US 6,305,750), Nadeau et al. (US 6,540,240), Gupta et al. (US 6,739,673), Silzer (WO 93/02903), and Paly (WO 93/11018) teach cart and molded seat elements of pertinence.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to F. Vanaman whose telephone number is 703-308-0424. Any inquiry of a general nature or relating to the status of this application should be directed to the group receptionist whose telephone number is 703-308-1113.

As of May 1, 2003, any response to this action should be mailed to:

Mail Stop \_\_\_\_\_  
Commissioner for Patents  
P. O. Box 1450  
Alexandria, VA 22313-1450,

Or faxed to one of the following fax servers:

Regular Communications/Amendments: 703-872-9326  
After Final Amendments: 703-872-9327  
Customer Service Communications: 703-872-9325

**F. VANAMAN**  
**Primary Examiner**  
**Art Unit 3618**



7/29/04